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Plaintiff shall file an amended complaint no later than August 24, 2018, reflecting the changes noted below.

August 8, 2018

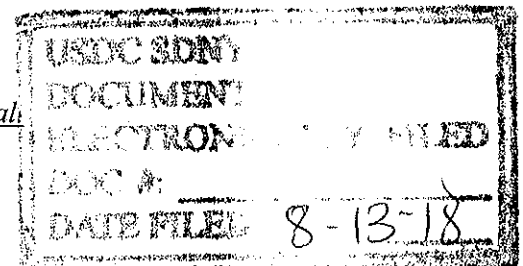
Via ECF

Hon. Loretta A. Preska
United States District Judge
Southern District of New York
500 Pearl Street, Room 2220
New York, NY 10007

NO ORDER

Loretta A. Preska
LORETTA A. PRESKA
UNITED STATES DISTRICT JUDGE
8/13/18

Dr. Muhammad Mirza et al. v. Does et al.
Civil Action No. 1:18-cv-06232-LAP



Dear Judge Preska:

I am counsel for Plaintiffs Dr. Muhammad Mirza ("Dr. Mirza") and Allied Medical and Diagnostic Services, LLC ("Allied Medical") in the above-referenced case. I write in response to Your Honor's Order dated August 7, 2018 (ECF No. 6) (the "Order"), concerning Plaintiffs' allegations of subject matter jurisdiction by diversity of citizenship pursuant to 28 U.S.C. § 1332.

The basis for diversity jurisdiction is complete diversity between the parties. Plaintiffs are citizens of New Jersey and Defendants are alleged to be citizens of New York. In the Order, Your Honor raised concern regarding Allied Medical's connections with the State of New York for diversity purposes.

As a threshold matter, the complaint contains two scrivener's errors: (i) as to Allied Medical's state of formation and (ii) as to Dr. Mirza's "residence," rather than his "domicile." First, Allied Medical is not a *New York* limited liability company, but rather a *Delaware* limited liability company duly authorized as a foreign entity in the State of New York since 2007. See attached print out from the New York Secretary of State's website indicating Allied Medical's entity type, status and address for service of process ("Enclosure"). Similarly, second, while the complaint alleges that Dr. Mirza "resides" in New Jersey, New Jersey is also his "domicile." See (Compl. at ¶ 4); compare Enclosure (Allied Medical's address for service of process in New Jersey is the same as Dr. Mirza's alleged residence).

As such, Allied Medical is a citizen of New Jersey, not New York or Delaware. See *Carter v. HealthPort Technologies, LLC*, 822 F.3d 47, 60 (2d Cir. 2016) ("In general, the citizenship of a limited liability company is determined by the citizenship of each of its members."); see, e.g., *Bayerische Landesbank, New York Branch v. Aladdin Capital Management LLC*, 692 F.3d 42, 49 (2d Cir. 2012); *Handelsman v. Bedford Village Associates*

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Limited Partnership, 213 F.3d 48, 51-52 (2d Cir. 2000). Allied Medical is alleged to be a limited liability company with one sole member: Dr. Mirza. Given that Dr. Mirza is alleged to “reside” in New Jersey (which is also his domicile), for diversity purposes, Allied Medical takes the citizenship of Dr. Mirza, and is also a citizen of New Jersey.

Thus, complete diversity exists between Plaintiffs and Defendants.

However, even were Allied Medical a New York limited liability company (as erroneously alleged in the complaint), diversity jurisdiction would still be proper, insofar as an LLC’s state of formation and principal place of business are disregarded for diversity purposes. *See HealthPort Technologies*, 822 F. 3d at 60. At the appropriate juncture and if necessary, Plaintiffs will amend the allegations of citizenship in the complaint to correct the scrivener’s errors identified above. In the interim, and an effort to expedite the resolution of the proceeding, Plaintiffs request that the Court consider this letter submission in evaluating the basis for diversity jurisdiction.

Regards,

/s/ Justin Mercer

Justin Mercer, Esq.

cc: David D. Lin, Esq. (via ECF)

Enclosure (1): printout from NY Secretary of State’s website regarding Allied Medical